IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 2015 of 1989

For Approval and Signature:

HONOURABLE MR.JUSTICE P.B.MAJMUDAR

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

SHRI VIRCHANDBHAI MADHUBHAI PATEL & 2 OTHERS
Versus
THE STATE OF GUJARAT & OTHERS

==========

Appearance :
NOTICE SERVED for Petitioners : 1 - 3.
MS PHALGUNI PATEL, ASST. GOVT. PLEADER for Respondents.

==========

CORAM : HONOURABLE MR.JUSTICE P.B.MAJMUDAR

Date : 06/11/2006

ORAL JUDGMENT

Learned advocate for the petitioners, Mr. M.K.

Joshipura has expired. Registry has, therefore, sent notice to the petitioners informing the said fact and as per the endorsement in the Board, they are served. However, the petitioners have neither chosen to appear in person nor engaged any advocate in this matter.

Three persons appointed as Lecturers on adhoc and tenure basis have filed the present petition praying for a relief that their services be deemed to have been continuous from their initial appointment and are accordingly eligible for all incidental benefits of continuous services until they are required to be displaced by candidates selected by the GPSC.

It is not in dispute that the present petitioners were appointed as Lecturers on adhoc and on tenure basis. The appointment orders are produced on record from page 11 onwards. It is also not in dispute that appointment to the post in question is required to be filled in through regularly selected GPSC candidates. The grievance of the petitioners is that they should have been given benefit of continuous service including salary for the vacations and all other benefits to which regularly selected employees are entitled to, and the respondent should be restrained from terminating their services till candidates regularly selected by the GPSC are available.

Several petitions praying for similar relief have been disposed of by this Court by giving certain directions.

In this matter, an affidavit in reply is filed on 13.04.1989 by D.A. Vora, Legal Officer, office of the

Director of Education. It is averred in reply that the appointment in question is adhoc and stop gap basis till GPSC selected candidates are available.

Thereafter another affidavit in reply is filed on 22.02.06 by one Mahendrabhai M. Bhatt, Joint Director, Commissioner of Higher Education Office, Gandhinagar. It is stated in the said affidavit that so far as petitioner No. 1, V.M. Patel, is concerned, he was appointed as an adhoc Lecturer in Government Arts and Commerce College, Dang, Ahwa but at present he is not working in the said college. So far as P.R. Shah, petitioner No. 2 is concerned, he has been selected by GPSC by order dated 04.03.91 and he has been regularly appointed as Lecturer and at present he is working as a Lecturer in B. Ed. College, Vasada. Similarly, J.T. Chowdhary, petitioner No.3 is concerned, he has also been selected by GPSC by order dated 21.03.89, and has been regularly appointed as a Lecturer and at present he is working as a Lecturer at Government Arts & Commerce College, Vasada.

Ms. Phalguni Patel, learned Assistant Government Pleader submitted that in view of the aforesaid facts, petitioners No. 2 and 3 are regularly selected and are in service in the respective colleges. She therefore submitted that so far as the petitioners No. 2 and 3 are concerned, the petition has become infructuous. She further submitted that so far as petitioner No. 1 is concerned, since he is now not serving, the cause of action does not survive.

In the result, this petition is rejected qua petitioner No.1 as the cause of action does not survive

and qua petitioners No. 2 and 3 as the same has become infructuous.

Rule is discharged. No order as to costs. The petitioners will be at liberty to apply in case of difficulty.

[P. B. MAJMUDAR, J.]

mathew